

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

REBECCA J. McKELVEY,)	
Plaintiff)	
v.)	No. 3:05-cv-174
JO ANNE B. BARNHART,)	
Commissioner of)	
Social Security,)	
Defendant)	

MEMORANDUM AND ORDER

This matter was referred to a United States magistrate judge pursuant to 28 U.S.C. § 636(b) and Rule 72(b), Federal Rules of Civil Procedure, for a report and recommendation regarding disposition of plaintiff's motion for judgment on the pleadings [Court File #17] and defendant's motion for summary judgment [Court File #24]. In a report and recommendation dated February 24, 2006, the United States magistrate judge recommended that plaintiff's motion be denied and defendant's motion be granted. Plaintiff has failed to file a timely objection to the report and recommendation.

Upon a *de novo* review of the record in this case and the magistrate judge's report and recommendation, I am in agreement with the United States magistrate judge. Specifically, there is substantial evidence in the record to support the conclusion of the administrative law judge that the plaintiff has the residual functional capacity to perform her past relevant work and is accordingly not suffering from a "disability" within the meaning of the Social Security Act.

Accordingly, the report and recommendation of the United States magistrate judge [Court File #26] is hereby ACCEPTED IN WHOLE. Plaintiff's motion for judgment on the pleadings [Court File #17] is DENIED; defendant's motion for summary judgment [Court File #24] is GRANTED; and the final decision of the defendant Secretary is AFFIRMED.

E N T E R :

s/ James H. Jarvis
UNITED STATES DISTRICT JUDGE